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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/697,316      | 10/27/2000  | Mark Stallmann       | 110275.4300US1      | 3937             |

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EXAMINER

JEANTY, ROMAIN

ART UNIT PAPER NUMBER

3623

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 09/697,316             |  | STALLMANN, MARK     |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Romain Jeanty          |  | 3623                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

↓

## **DETAILED ACTION**

### **Response to Amendment**

1. This communication is in response to the amendment filed January 3, 2005. By the amendment, claims 1-2 have been amended. No claims have been canceled or added. Claims 1-53 are pending in the application.
2. Applicant's amendment filed on January 5, 2005 has overcome the 35 U.S.C. 112, second paragraph rejection. The rejection has been withdrawn.

### **Response to Arguments**

3. Applicant's arguments with respect to claims 1-53 have been considered but are moot in view of the new ground(s) of rejection.

### **Information Disclosure Statement**

4. The information disclosure statement (IDS) submitted on 5, 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### **Claim Objections**

5. Claim 16 is objected to because of the following informalities: It appears that the word lest in line 3 should be "least". Appropriate correction is required.

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**Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 6-7, 9-10, 15-16, 20, 31-32, 36, 44-45, 48-53 are rejected under 35 U.S.C. 102(b) as unpatentable over Daniel, Jr. et al "Hereinafter referred to Daniel" (U.S. Patent No. 4,972,504) in view of North et al ("hereinafter referred to North") (U.S. Patent No. 5,992,888).

As per claims 1, 15, 20, 44 and 49-53, Daniel discloses a market research retails sales data collection system. In so doing, Daniel teaches a plurality of data generating machines each transmitting data pertaining to at least one monitored sales event, said at least one monitored sales event capable of corresponding to a plurality of different products from a plurality of sales, distribution or manufacturing sources effectuated or managed by each of said plurality of data generating machines via at least one computer (i.e. collecting sales data from a variety of in-store devices), at least one computer responsively connectable to said plurality of point of sales devices via said at least one of a satellite network, receiving and cumulatively storing the data transmitted by each of said plurality of data generating machines corresponding to a predetermined time period, transmitting the collected data to a processing center to be, and including at least one application software program running thereon that analyzes the aggregated data (using a communication network for transmitting the data to be processed and analyzed) (col. 7, lines 14-33). Daniel discloses all of the limitations above but fails to disclose the product

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from a manufacturing sources. North in the same field of endeavor, discloses a point of sale system for displaying materials to a potential purchaser coincident with the making of a financial transaction by the purchaser (col. 7, lines 43-57). Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Daniel to incorporate the teachings of North with the motivation to automatically display product information to a potential customer at a point of sale.

As per claims 2, 16, 32, 36, 45, 48, Daniel further discloses wherein said plurality of plurality of point of sale devices capable of transmitting the data utilizing a plurality of data formats, and wherein said at least one computer stores and at least one of formats and at least one of reformats and interprets the transmitted data utilizing at least one of said plurality of data formats prior to cumulatively storing the transmitted data. It is old and well known in the art to reformat a formatted data. Reformatting the data in Daniel's system would have been obvious to a person of ordinary skill in the art in order to represent the data in a standard format (i.e. transmitting the collected data in different format (col. 1, line 61 through col. 2 line 40 and col. 3, lines 21-45).

As per claims 6-7, 9-10, Daniel further discloses wherein a transceiver and a processor in at least one of said plurality of data generating machine transmits data using a same data transmission protocol as one of the respective terrestrial, Internet, satellite and landline networks to which it transmits (i.e. a transceiver for transmitting and receiving data) (col. 3, lines 28-35).

Claim 31 is essentially the same as system claim 1 except that they are directed to a computer readable medium storing instructions executable, the instruction instructing the

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computer to aggregate and analyze data from a plurality of point of sale devices, and are rejected for the same reason as applied to the claim 1 above.

8. Claims 3, 17, 33, 43, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel in view of North as applied to claim 1 above and further in view of Anderson et al (U.S. Patent No. 5,974,396).

As per claims 3, 17, 33, 43, 46, the combination of Daniel and North fails to explicitly disclose wherein the cumulative stored data on said at least one computer is analyzed to determine at least one of consumer buying habits and preferences. Anderson in the same field of endeavor, discloses a method and system for gathering and analyzing consumer purchasing information based on product and consumer clustering relationships. In so doing, Anderson et al teach analyzing data for determining consumer buying habits (See abstract; and col. 3 line 41 through col. 4 line 33). It would have been obvious to a person of ordinary skill in the art to modify the disclosures of Daniel and North to incorporate the teachings of Anderson et al with the motivation to the effectiveness of promotional efforts with respect to particular products.

9. Claims 4, 18, 34-35, 47, are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel in view of North as applied to claim 1 above and further in view of Joshi (U.S. Patent No. 5,317,566).

As per claims 4, 18, 34-35, and 47, the combination of Daniel and North fails to disclose wherein at least one of said plurality of data generating machines has at least one intelligent routing device operatively connected thereto that selects at least a cost data transmission path over at least one of said at least one terrestrial, Internet, satellite and landline network. Joshi in the same field of endeavor, discloses the concept of selecting a least cost to transmission of a network (col. 1 line 64 through col. 2 line 23). It would have been obvious to person of ordinary

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skill in the art to modify the disclosures of Daniel and North to include the teachings of Joshi with the motivation to reduce the cost of transmitting the data.

10. Claims 5, 8, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel in view of North as applied to claim 1 above and further in view of Brown (Software Links POS With multiple nets).

As per claims 5, 8, and 19, Daniel and North fail to teach at least one gateway device performing a data transmission protocol conversion between at least one first network and at least one second network among said at least one of the terrestrial, Internet, satellite and landline networks that operatively communicate with each other. Brown in the same field of endeavor, teaches a gateway for connecting a plurality of point of sales. Note col. 3-4 of Brown. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of Daniel and North to incorporate the teachings of Brown in order to interface with point of sales and to receive data efficiently.

11. Claims 11-12, 21-26, 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel (U.S. Patent No. 4,972,504) in view of Dejaeger et al (U.S. Patent No. 6,456,981).

As per claims 11-12, 21-26 and 37-42, Daniel does not explicitly disclose wherein said at least one computer transmits to at least one of said plurality of data generating machines one or more audible and/or visual advertisements. Dejaeger et al in the same field of endeavor discloses the concept of delivering advertising messages to a plurality of terminals (col. 12, lines 25-53). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the teachings of Daniel to include transmitting an audible advertisement to the plurality of terminals as evidenced by Dejaeger et al with the motivation to direct a customized advertising message at a given customer.

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12. Claims 13-14, 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel (U.S. Patent No. 4,972,504).

As per claim 13-14, 27-30, Daniel fails to disclose an application software for monitoring the point of sale devices and taken inventory of sales items of the point of sales devices. However, Daniel fails to explicitly disclose wherein the application software program provides a recommended replenishment schedule and/or replenishment goods for at least one of said plurality of point of sale devices. It would have been obvious to a person of ordinary skill in the art to recommend replenishment schedule and/or replenishment goods for at least one of said plurality of point of sale devices of Brown with the motivation to provide a continuous update of the inventory in the point of sales devices. Applicant is directed to page 1 column 4 and 5 and page 2 column 5 of Brown (Software links POS with multiple nets). Furthermore, Brown discloses providing point of sales data to a third party vendor. Note Page 2 column 5 of Brown.

As per claim 29, the limitations of claim 29 have already been rejected in claim 3 above. See rejection of claim 3 above.

### **Conclusion**

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Beach et al (U.S. Patent No. 5,924,077) discloses a computer based system for monitoring and processing data collected at the point of sale of goods and services which teaches the concept of reformatting the point of sales data in order to present the data in a standardized format (col. 1, line 61 through col. 2 line 40 and col. 3, lines 21-45),



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b. Psinakis (U.S. Patent No. 5,532,939) discloses selecting data file through a transmission device such as the estimated cost and time of transmission for a data file.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 18, 2005

  
Romain Jeanty  
Primary Examiner  
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